Hon. Ronald Reinstein, Ret, on behalf of members of Rule 10.5 Workgroup Commission on Victims in the Courts 1501 W. Washington, Phoenix, AZ 85007 602-452-3138

## IN THE SUPREME COURT OF THE STATE OF ARIZONA

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PETITION TO AMEND RULE 10.5,	)	
ARIZONA RULES OF CRIMINAL	)	Supreme Court No. R-08-0022
PROCEDURE	)	COMMENT

Judge Ron Reinstein, Chair of the Supreme Court's Commission on Victims in the Courts (the Commission), respectfully submits the following comment. The Commission was asked to review this petition because it proposes procedural changes that would impact crime victims in superior court matters. The full Commission unanimously supported the general concept of giving appropriate notice to victims and witnesses regarding assignment or reassignment of a case for trial; however, after a lengthy discussion and concerns expressed by some Commission members, the Commission was unable to come to a consensus and voted to establish a workgroup to recommend changes to the petition's existing language and to motion the Court to extend the comment period to submit a comment on this petition.

Commission members who volunteered for the workgroup included the Commission chair, two superior court judges (from rural counties), a defense attorney and a victim advocate representative. Additionally, one of the petitioners, a victim rights' attorney, and the Criminal Presiding Judge from Maricopa Superior Court joined the workgroup meetings.

The Commission was not able to meet to approve any comments before the deadline for further comments on this petition. As a result, this comment is submitted by the Chair, who also served on the workgroup created by the Commission referred to above. The workgroup held telephonic meetings on two occasions between June 1<sup>st</sup> and June 8<sup>th</sup>. Over the course of the two meetings, the workgroup continued to discuss the proposal's merits and how this proposal will impact all counties throughout the state.

Despite support of the concept, the majority of the Commission members participating on this workgroup believed the current proposal will not accomplish the goal of moving cases forward in a timely manner and may cause further delay at the victim's expense. Furthermore, it was acknowledged by some members of the workgroup that since most crime victims do not have an attorney, the interest of the state and defense, and not the victim, may be the priority when deciding to continue proceedings for the full five days.

In the alternative, it was suggested that incorporating the language of A.R.S. §13-4409 into the Criminal Rules might alleviate the victims' concerns raised by the requested rule change. In any event, educating the judicial community and the Bar regarding the appropriate use of Rule 39(b) of the Rules of Criminal Procedure, in conjunction with A.R.S. § 13-4409, would likely resolve the underlying concern raised by this proposal from a victims' rights perspective.

RESPECTFULLY SUBMITTED this	day of June, 2009.
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By\_\_\_\_\_

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Original and copies of the foregoing Hand-delivered on the date of signing to: CLERK'S OFFICE ARIZONA SUPREME COURT 1501 W. Washington Phoenix, AZ 85007-3231

Original and copies of the foregoing Mailed on the date of signing to:

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